In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 10976 of 2006

Date of Decision: 14.8.2007

Bikram Singh

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice M.M.S. Bedi.

Present: Mr. V.K. Shukla, Advocate
for the petitioner.

Mr. B.S. Chahal, AAG, Punjab
for the respondents.

...

J.S. Khehar, J.(Oral).

Through the instant writ petition, the petitioner has impugned memo dated 9.5.2006 (Annexure P-7) vide which he has been charge-sheeted under Rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. This action of the respondents in charge-sheeting the petitioner, has been impugned by asserting, that the same is in clear violation of the mandate contained in Rule 2.2(b) of the Punjab Civil Services Rules Volume-II. Rule 2.2(b) of the Punjab Civil Services Rules Volume-II, which has been relied upon by the learned counsel for the petitioner, is being extracted hereunder:-

"(2) Such departmental proceedings, if not instituted while the

officer was in service whether before his retirement or during his re-employment-

(i) shall not be instituted save with the sanction of the Government ;

(ii) shall not be in respect of any event which took place more than four years before such institution ; and

(iii)shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service."

Learned counsel for the petitioner has invited our attention to the impugned charge-sheet. A perusal of the particulars of charges appended thereto reveals, that the charges levelled against the petitioner pertained to the year 1999. The instant factual position has not been disputed by the learned counsel for the respondents. Coupled with the fact, that the charges levelled against the petitioner in the impugned memo dated 9.5.2006 relate to the year 1999, it is pointed out, that the petitioner retired on attaining the age of superanuation on 30.9.2002. On the basis of the factual position noticed hereinabove, it is the vehement contention of the learned counsel for the petitioner, that more than seven years had elapsed from the date of the delinquency attributed to the petitioner when the charge-sheet was issued to the petitioner through memo dated 9.5.2006. Having examined the factual position contained in the pleadings of the instant writ petition, we are satisfied, that Rule 2.2(b) of the Punjab Civil Services Rules Volume-II, is clearly applicable to the controversy in hand,

inasmuch as, the aforesaid rule debars the initiation of departmental proceedings against a retired government employee, if the alleged delinquency is of a period of more than four years before the initiation of the said departmental proceedings. In the instant writ petition, it is obvious, that the delinquency was of a period of approximately seven years when the charge-sheet was issued to the petitioner through the memo dated 9.5.2006. The aforestated charge-sheet was in clear violation of the mandate contained in Rule 2.2(b) of the Punjab Civil Services Rules Volume-II, and as such, is liable to be set aside, and the same is, accordingly, set aside.

Learned counsel for the petitioner states, that on account of the pendency of the impugned memo dated 9.5.2006, the respondents have withheld the leave encashment, as well as, the gratuity payable to the petitioner on his retirement.

Since the only obstacle in releasing the aforesaid monetary benefits, has been set aside by us through our instant order, we are of the view, that the respondents should release the aforesaid monetary benefits to the petitioner within two months from the date of receipt of a certified copy of this order. Ordered accordingly.

Writ petition stands disposed of in the aforesaid terms.

Order dasti on payment of usual charges.

(J.S. Khehar)
Judge.

(M.M.S. Bedi)
Judge.

14.08.2007
sk.